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09/675,025	09/28/2000	Charles Eric Hunter	WT-10	7653

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EXAMINER

DINH, DUNG C

ART UNIT PAPER NUMBER

2152

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/675,025

Applicant(s)

HUNTER ET AL.

Examiner

Dung Dinh

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 134-177 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 134-177 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Art Unit: 2152

DETAILED ACTION

Response to Arguments

This action is in respond to amendment filed 6/10/05.
Claims 1-133 were canceled. New claims 134-177 were added.

The following is a new ground of rejection necessitated by the amendment.

Claim Rejections - 35 USC § 112

Claims 136-140, 144, and 171-173 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.

Claim 136 recites the limitation "stored digital data content". There is insufficient antecedent basis for this limitation in the claim.

Claims 137-139, 171-173, "the defined criteria" lacks proper antecedent basis.

Claim 140, "the pre-recorded video program" lacks proper antecedent basis.

Claim 144, "the time-based codes C" lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

Art Unit: 2152

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 134, 146, 168 and 175 are rejected under 35

U.S.C. 102(b) as being anticipated by Graves et al. US patent 5,410,344.

As per claim 134, Graves teaches a method comprising:

transmitting a plurality of video programs to plurality of consumer locations (col.3 lines 15-22).

transmitting classification information in a header of at least some of the plurality of the video programs (col.4 lines 10-21, 53-59);

providing mechanism to compare the classification information to preference information of a consumer location (col.4 lines 22-51); and

providing mechanism to automatically select video programs having a defined degree of similarity between the classification information and the preference information (col.4 lines 31-35, col.7 lines 55-62).

Art Unit: 2152

As per claim 146, it is inherent that Graves have computer readable medium with computer executable instructions for performing the method of claim 134.

As per claims 168 and 175, they are rejected under similar rationale as for claim 134 above. Receiver 20a shown in fig.2 contains the mechanisms and performs the steps of receiving and automatically selecting video programs as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 134-140,145, 146-152, 158-160, 165-167, 168-177 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo US patent 6,025,868 and further in view of Graves et al. US patent 5,410,344.

As per claims 134 and 146, Russo teaches a method comprising

Art Unit: 2152

transmitting plural digital content the customer [inherent];
permitting the customer to select desired content for
recording [see col.4 lines 15-25 - optical discs];

Russo suggested making use of program schedule information from a provider (col.4 lines 63-65). However Russo does not specifically disclose providing classification information in a header and automatically selecting video programs based on degree of similarity with a customer preference. In similar field of video transmission, Graves teaches transmitting classification information in a header of at least some of the plurality of the video programs (col.4 lines 10-21, 53-59); providing mechanism to compare the classification information to preference information of a consumer location (col.4 lines 22-51); and providing mechanism to automatically select video programs having a defined degree of similarity between the classification information and the preference information (col.4 lines 31-35, col.7 lines 55-62). Hence, it would have been obvious for one of ordinary skill in the art to combine the teaching of Graves with Russo because it would have improved the system by providing an adaptive system for selecting programs that fits the preferences of individual viewers (Graves col.2 lines 3-11).

As per claim 135 and 147, Russo teaches billing the customer once a video program has been selected for viewing that has been

Art Unit: 2152

previously recorded [col.5 lines 1-5, col.6 lines 25-32, col.11 lines 57-59].

As per claims 136-139 and 148-151, Russo teaches erasing content (col.5 lines 10-13, col.11 lines 20-25). Russo does not specifically disclose overriding oldest content, older release or least fit. The replace criteria recited would have been obvious to one of ordinary skill in the art. It would have been obvious for replace oldest or old release because it would have been least likely to be view by the user again. It would have been obvious to replace using least fit so as to minimize the number of content that would need to be erased to make room for the new content.

As per claims 140 and 152, Russo teaches recording desired content on removable storage medium [see col.4 lines 15-25 - optical discs].

As per claim 145, Russo teaches transmitting via satellite (col.6 lines 16, col.8 lines 19-23, col.9 lines 20-33).

As per claims 158, 168, and 175, they are rejected under similar rationale as for claim 134 above.

As per claims 159 and 174, they are rejected under similar rationale as for claim 140 above.

Art Unit: 2152

As per claims 160, 169 and 176, they are rejected under similar rationale as for claim 135 above.

As per claims 164-167, 171-173, and 177 they are rejected under similar rationales as for claims 136-139 above.

Claims 141 and 153 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo and Graves and further in view of Rabowsky US patent 6,141,530.

As per claims 141, and 153, Russo teaches, Russo does not teach preventing playback on an unauthorized device. However, in similar field of content transmission, Rabowsky teaches Control Assess System to encode the content so as to permit only playback on authorized device (see col.6 lines 5-23, col.6 line 58 to col.7 line 4). Hence, it would have been obvious for one of ordinary skill in the art to combine the teaching of Rabowsky with Russo because it would have improved the security of the system and reduced pirating.

Claims 142-144, 161-163 and 154-156 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo, Graves and Rabowsky, and further in view of Banker et al. US patent 6,005,938.

As per claims 142-143, 161-162 and 154-155, Russo as modified does not teach encoding the movie with a time-based code keys. In

Art Unit: 2152

similar field of invention, Banker teaches a method of encryption including encrypting with time-based code keys and transmitting keys to the users to enable playback at during certain period of time and prevent authorized uses (see Abstract, fig.2, col.1 lines 37-63, col.4 lines 7-53). Hence, it would have been obvious for one of ordinary skill in the art to combine the teaching of Banker to Russo to encode the movie with a time-based code keys because it would have improved the security of the system. Banker teaches transmit a correlated key B to all customers and a time-based key C that are provided to customers who are in good standing. (See Banker col.6 lines 55-68 and Russo col.6 lines 15-21, 50-53.)

As per claims 144, 163 and 156, Russo teaches communicate playback information to the central controller when time based code C are provided (col.6 lines 25-27).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2152

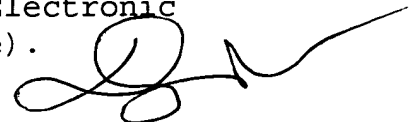
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (571) 272-3943. The examiner can normally be reached on Monday-Friday from 7:00 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (571) 272-3949.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dung C. Dinh
Primary Examiner